

## REMARKS

### I. Introduction

Applicants submit the present Request for Reconsideration in response to the Office Action mailed October 10, 2007 ("Office Action"). Applicants sincerely appreciate the indication in the Office Action that all of the claims are patentable over the prior art. The Office Action, however, indicates that all of the claims are directed to non-statutory subject matter, and hence rejects all of the pending claims under 35 U.S.C. § 101. For the reasons discussed below, Applicants respectfully submit that the claims are directed to statutory subject matter. Applicants, therefore, respectfully submit that the application is now in condition for allowance.

### II. The Rejections Under 35 U.S.C. § 101

The Office Action states that pending Claims 1-23 are directed to non-statutory subject matter, and hence each of these claims have been rejected under 35 U.S.C. § 101. (Office Action at 2). In particular, the Office Action states that the claims only include perfunctory recitations of functional material (e.g., computer readable medium, computer readable field, computer program product, etc.), and that the remainder of each claim only recites non-functional descriptive material. (Office Action at 2). For the reasons set forth below, Applicants respectfully traverse these rejections.

Section 2106 of the Manual of Patent Examining Procedure ("MPEP") sets forth definitions regarding what does and does not qualify as patentable subject matter under 35 U.S.C. § 101. Section 2106 likewise provides Guidelines for examination of claims for patentable subject matter. Applicants respectfully submit that these definitions and Guidelines clearly demonstrate that each of the pending claims are directed to patentable subject matter.

#### A. The Claims Fall Within the Enumerated Statutory Categories

The first inquiry under the Guidelines is whether the pending claims fall within one of the four statutory categories of patentable subject matter enumerated in 35 U.S.C. § 101. These categories are (1) process, (2) machine, (3) manufacture and (4) composition of matter. Here, all of the claims clearly fall within one of the statutory categories. In particular, independent Claim 1 is directed to "a system for generating computer security threat

management information." Thus, independent Claim 1 is directed to a machine (the second enumerated category of patentable subject matter), which can be implemented, for example, as a computer program running on a processor. (*See, e.g.*, Application at Fig. 29 and description thereof and p. 8, line 28 through p. 9, line 17). Likewise, independent Claim 16 is directed to a method for generating computer security threat management information, and hence falls within the "process" category of patentable subject matter. Moreover, the method of Claim 16 involves the transformation of subject matter in at least two ways. First, the method specifically recites processing a received TMV and second, after processing, the received TMV is transmitted to at least one target computer system. Finally, independent Claim 17 is directed to a computer program product that includes computer readable program code embodied in a computer usable storage medium. As such, independent Claim 17 is directed to an article of manufacture. Thus, Applicants respectfully submit that all of the independent claims (and the dependent claims as well) are directed to one of the enumerated categories of statutory subject matter set forth in 35 U.S.C. § 101.

B. The Claims Do Not Fall Within the Section 101 Judicial Exceptions

The second inquiry under the Guidelines involves an analysis as to whether the claimed inventions fall within any of the judicially-noted exceptions to patentable subject matter. These exceptions are (1) laws of nature, (2) natural phenomena and (3) abstract ideas. Applicants respectfully submit that it is beyond question that none of the independent claims are directed to any of the judicial exceptions. The methods, systems and computer program products recited in independent Claims 1, 16 and 17 may be used to generate computer security threat management information. Such methods, systems and computer program products clearly are not directed to "laws of nature" or "natural phenomena." It is likewise clear that the claimed systems, methods and computer program products are not directed to "abstract ideas", but instead provide tangible results. (*See* MPEP § 2106 at IV.C.2.(2)(b), stating that "tangible" is the opposite of "abstract"). By way of example, independent Claim 16 recites a method in which a processed threat management vector that contains, among other things, identification of possible computer security threat countermeasures is transmitted to at least one target computer system. This is clearly a "tangible" result that is not abstract in any way, shape or form. Claims 1 and 17 are directed to systems and computer

program products, respectively, that provide functionality for performing such a method. Thus, Applicants likewise submit that it is clear that none of the claims fall within any of the judicial exceptions to 35 U.S.C. § 101.

C. The Claims Produce a Useful, Concrete and Tangible Result

Under the Guidelines set forth in MPEP § 2106, even if the claims allegedly cover one of the judicial exceptions, the inquiry does not stop there. Instead, the inquiry continues with an analysis as to whether or not the claims are directed to a "practical application" of one of the judicial exceptions. Here, there is no need to proceed to this analysis, as the claims clearly are not directed to any of the judicial exceptions as shown above. However, Applicants will show here that pending claims are all directed to "practical applications" as that term is defined in MPEP § 2106 as further proof that the pending claims are directed to patentable subject matter.

In particular, MPEP § 2106 states that a claimed invention is useful if it is specific, substantial and credible. Here, independent Claim 16 is directed to a method in which a processed threat management vector that contains, among other things, identification of possible computer security threat countermeasures is transmitted to at least one target computer system. This is clearly specific (i.e., what is done is described in detail), substantial (i.e., it is a meaningful result to provide the target computer systems such information) and credible (i.e., it is believable that the method will actually work). Claims 1 and 17 are directed to systems and computer program products, respectively, that provide functionality for performing such a method. Accordingly, all of the pending claims provide a useful result.

Each of the pending claims also provide a tangible result. As noted above, a result is considered "tangible" if it produces a "real world" or "non-abstract" result. Here, transmitting the identification of computer security threat countermeasures to one or more target computer systems is clearly a real world result as opposed to some abstract concept. As such, it is also clear that each of the pending claims provide "tangible" results.

Finally, with respect to providing "concrete" results, MPEP § 2106 explains that a result is concrete if it is "substantially repeatable." Here, there is simply no question that, for example, the method of independent Claim 16 could be repeated, and the Office Action does not appear to contend otherwise. Thus, for the reasons set forth above, Applicants

respectfully submit that all of the pending claims clearly provide useful, tangible and concrete results. As such, even were the claims directed to abstract ideas, laws of nature or natural phenomena – which they clearly are not – the claims would still comprise patentable subject matter under 35 U.S.C. § 101.

**D.     The Claims are Not Directed to Computer-Related Nonstatutory Subject Matter**

For the reasons discussed above, Applicants respectfully submit that it is clear that each of the pending claims is directed to patentable subject matter under 35 U.S.C. § 101. In addition, application of the guidelines regarding the statutory or nonstatutory nature of computer related subject matter that is set forth MPEP § 2106.01 provides further confirmation as to the compliance of the pending claims with 35 U.S.C. § 101. In particular, pursuant to MPEP § 2106.01, "descriptive material" can be characterized as either "functional" or "non-functional" material. While not defined in the MPEP, the examples of "non-functional descriptive material" provided are "music, literary works, and a compilation or mere arrangement of data." (*See* MPEP § 2106.01). In contrast, "functional descriptive material" is defined as consisting of "data structures and computer programs which impart functionality when employed as a computer component."


Here, Applicants respectfully submit that it is beyond question that none of the claims are drawn to "non-functional descriptive material." The claims are clearly not directed to music, literary works or compilations or arrangements of data, which are the illustrative example of non-functional descriptive material provided in the MPEP. Instead, the claims recite systems, methods and computer program products that may be used to generate computer security threat management information. Such methods, systems and computer program products are neither "descriptive" nor "non-functional." Moreover, the MPEP also expressly recognizes that functional descriptive material, when recorded on some computer readable medium, "becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized." (MPEP § 2106.01). Thus, even were some of the claimed methods considered to be directed to functional descriptive material, those claims are still directed to

statutory subject matter. Accordingly, the rejections under 35 U.S.C. § 101 should be withdrawn for these additional reasons.

### III. Conclusion

Applicants submit that the claims are patentable for at least the reasons discussed above. Applicants respectfully request allowance of the claims and passing of the application to issue in due course. Applicants encourage the Examiner to contact the undersigned by telephone to resolve any remaining issues.

Respectfully submitted,



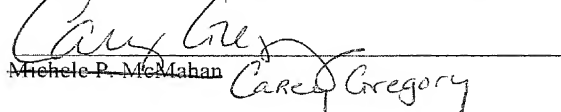
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#### CERTIFICATION OF TRANSMISSION

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